

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

THOMAS KELLER,

~~SEALED BY ORDER
OF THE COURT~~

DEFENDANT(S).

CR 18 462

FILED

SEP 27 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

VC

INDICTMENT

VIOLATIONS: 21 U.S.C. 841(a)(1) & 841(b)(1)(C) (dispensing and distributing a Schedule II controlled substance without a legitimate medical purpose) (Counts One and Two); 21 U.S.C. 841(a)(1) & 841(b)(2) (dispensing and distributing a Schedule IV controlled substance without a legitimate medical purpose) (Count Three)
18 U.S.C. 1347 (health care fraud) (Counts Four and Five)

A true bill.

Hilga Gruber

Foreman

Hilga Gruber

Filed in open court this 27 day of SEPT 2018

[Signature] 9/27/18
Joy L. Garcia
Clerk

Bail, \$

Summons

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

21 U.S.C. 841(a)(1) & 841(b)(1)(C) (dispensing and distributing a Schedule II controlled substance without a legitimate medical purpose) (Counts One and Two) ☐ Petty

21 U.S.C. 841(a)(1) & 841(b)(2) (dispensing and distributing a Schedule IV controlled substance without a legitimate medical purpose) (Count Three) ☐ Minor

18 U.S.C. 1347 (health care fraud) (Counts Four and Five) ☒ Felony

PENALTY: See Attachment A

SEALED BY ORDER OF THE COURT

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

Thomas Keller

DISTRICT COURT NUMBER

CR 18 462-VC**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

DEA

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Alex G. Tse

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) Shailika S. Kotiya

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

 1) ☐ If not detained give date any prior summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☒ SUMMONS ☐ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☒ Arraignment ☒ Initial Appearance

Defendant Address:

751 Church Street, Santa Rosa, CA 95405

Date/Time: Oct. 1, 2018; 9:30 A.M. Before Judge: Joseph C. Spero

Comments:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Attachment A
Indictment
United States v. Thomas Keller

Counts 1 and 2	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) – Distribution of Schedule II Controlled Substances
Count 3	21 U.S.C. § 841(a)(1) and 841(b)(2) – Distribution of Schedule IV Controlled Substances
Counts 4 and 5	18 U.S.C. § 1347 – Health Care Fraud

Counts 1 and 2: For each count, Maximum 20 Years Imprisonment; Maximum Fine of \$1,000,000 or twice the gain or loss; Minimum Supervised Release of 3 Years; Maximum Supervised Release of Life; Mandatory \$100 Special Assessment; Potential Deportation; Forfeiture; Mandatory and Discretionary Denial of Federal Benefits.

Count 3: For each count, Maximum 5 Years Imprisonment; Maximum Fine of \$250,000 or twice the gain or loss; Minimum 1 Year Supervised Release; Maximum Supervised Release of Life; Mandatory \$100 Special Assessment; Potential Deportation; Forfeiture; Mandatory and Discretionary Denial of Federal Benefits.

Counts 4 and 5: For each count, Maximum 10 Years Imprisonment; Maximum Fine of \$250,000 or twice the gain or loss; Maximum Supervised Release of 3 Years; Mandatory \$100 Special Assessment; Potential Deportation; Forfeiture; Restitution.

ALEX G. TSE (CABN 152348)
United States Attorney

BARBARA J. VALLIERE (DCBN 439353)
Chief, Criminal Division

SHAILIKA S. KOTIYA (CABN 308758)
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Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FILED
SEP 27 2018
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
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OAKLAND

**SEALED BY ORDER
OF THE COURT**

VC

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS KELLER,

Defendant.

No.

CR 18 462

VIOLATIONS: Counts One through Three: 21
U.S.C. § 841(a)(1) – Distribution of a Controlled
Substance; 18 U.S.C. § 1347 – Health Care Fraud; 18
U.S.C. § 982 and 21 U.S.C. § 853(a) – Criminal
Forfeiture Allegations

[UNDER SEAL]

INDICTMENT

The Grand Jury charges:

COUNT ONE: (21 U.S.C. §§ 841(a)(1) & 841(b)(1)(C) – Distributing Fentanyl Outside the
Scope of Professional Practice)

On or about July 2, 2018, in the Northern District of California, the defendant,

THOMAS KELLER,

a physician licensed to practice medicine in the State of California and authorized to dispense controlled
substances, did knowingly and intentionally distribute a mixture and substance containing a detectable
amount of N-phenyl-N- [1- (2-phenylethyl) -4-piperidinyl] propanamide (otherwise known as fentanyl),

INDICTMENT

1 a Schedule II controlled substance, to G.B., knowing and intending that the distribution was outside the
 2 scope of professional practice and not for a legitimate medical purpose, in violation of Title 21 United
 3 States Code, Sections 841(a)(1) and (b)(1)(C).

4 COUNT TWO: (21 U.S.C. §§ 841(a)(1) & 841(b)(1)(C) – Distributing Oxycodone Outside the
 5 Scope of Professional Practice)

6 On or about June 8, 2017, in the Northern District of California, the defendant,

7 THOMAS KELLER,

8 a physician licensed to practice medicine in the State of California and authorized to dispense controlled
 9 substances, did knowingly and intentionally distribute Oxycodone, a Schedule II controlled substance, to
 10 A.M., knowing and intending that the distribution was outside the scope of professional practice and not
 11 for a legitimate medical purpose, in violation of Title 21 United States Code, Sections 841(a)(1) and
 12 (b)(1)(C).

13 COUNT THREE: (21 U.S.C. §§ 841(a)(1) & 841(b)(2) – Distributing Tramadol Outside the Scope
 14 of Professional Practice)

15 On or about March 12, 2018, in the Northern District of California, the defendant,

16 THOMAS KELLER,

17 a physician licensed to practice medicine in the State of California authorized to dispense controlled
 18 substances, did knowingly and intentionally distribute Tramadol, a Schedule IV controlled substance, to
 19 A.M., knowing and intending that the distribution was outside the scope of professional practice and not
 20 for a legitimate medical purpose, in violation of Title 21 United States Code, Sections 841(a)(1) and
 21 (b)(2).

22 COUNT FOUR: (18 U.S.C. § 1347 – Health Care Fraud)

23 On or about March 12, 2018, in the Northern District of California, the defendant,

24 THOMAS KELLER,

25 did knowingly and intentionally execute and attempt to execute a scheme and artifice to defraud a health
 26 care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b),
 27 namely, Anthem Blue Cross of California, all in connection with the delivery of and payment for health
 28 care benefits, items, and services, and did for the purpose of executing and attempting to execute said

1 fraudulent scheme, knowingly and willfully submit and cause to be submitted to Anthem Blue Cross of
 2 California, and to be paid by Anthem Blue Cross of California, a false and fraudulent claim relating to
 3 patient A.M., in violation of Title 18, United States Code, Section 1347.

4 COUNT FIVE: (18 U.S.C. § 1347 – Health Care Fraud)

5 On or about July 24, 2015, in the Northern District of California, the defendant,

6 THOMAS KELLER,

7 did knowingly and intentionally execute and attempt to execute a scheme and artifice to defraud a health
 8 care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b),
 9 namely, Medi-Cal, all in connection with the delivery of and payment for health care benefits, items, and
 10 services, and did for the purpose of executing and attempting to execute said fraudulent scheme,
 11 knowingly and willfully submit and cause to be submitted to Medi-Cal, and to be paid by Medi-Cal, a
 12 false and fraudulent claim relating to patient A.R., in violation of Title 18, United States Code, Section
 13 1347.

14 FORFEITURE ALLEGATIONS: (18 U.S.C. §§ 981(a)(1)(C), 982(a)(7); 21 U.S.C. § 853; and 28
 15 U.S.C. § 2461(c) – Criminal Forfeiture)

16 The factual allegations contained in Counts One through Five of this Indictment are hereby re-
 17 alleged and fully incorporated as if set forth here, for the purpose of alleging forfeiture pursuant to Title
 18 18, United States Code, Sections 981(a)(1)(C) and 982(a)(7), Title 21, United States Code, Section 853,
 19 and Title 28, United States Code, Section 2461(c).

20 Upon conviction for any of the offenses alleged in Counts One through Three, the defendant,

21 THOMAS KELLER,

22 shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any property
 23 constituting, or derived from, any proceeds that defendant obtained, directly or indirectly, as the result of
 24 such violations, and any property used or intended to be used, in any manner or part, to commit or to
 25 facilitate the commission of such violations, including but not limited to his license to practice as a
 26 physician in California (License No. G 27288).

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1 If any of the property, as a result of any act or omission of the defendant(s):

- 2 a. cannot be located upon the exercise of due diligence;
3 b. has been transferred or sold to, or deposited with, a third party;
4 c. has been placed beyond the jurisdiction of the court;
5 d. has been substantially diminished in value; or
6 e. has been commingled with other property which cannot be divided without
7 difficulty,

8 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
9 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

10 Upon a conviction of any of the offenses alleged in Counts Four and Five, the defendant,

11 THOMAS KELLER,

12 shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and
13 982(a)(7), and Title 28, United States Code, Section 2461(c), all property, real or personal, that
14 constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the
15 offense, including but not limited to a sum of money equal to the gross proceeds obtained as a result of
16 the offense.

17 If any of the property, as a result of any act or omission of the defendant(s):

- 18 a. cannot be located upon the exercise of due diligence;
19 b. has been transferred or sold to, or deposited with, a third party;
20 c. has been placed beyond the jurisdiction of the court;
21 d. has been substantially diminished in value; or
22 e. has been commingled with other property which cannot be divided without
23 difficulty,

24 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
25 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

26 //

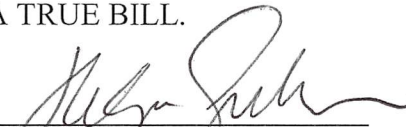
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1 All in violation of Title 18, United States Code, Sections 982(a)(7) and 982(a)(7); Title 21,
2 United States Code, Section 853; and Title 28, United States Code, Section 2461(c); and Rule 32.2 of
3 the Federal Rules of Criminal Procedure.

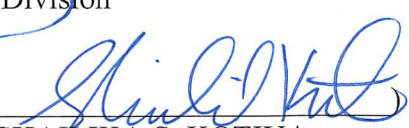
4
5 DATED: September 27, 2018

A TRUE BILL.

6
7 
FOREPERSON

8 ALEX G. TSE
United States Attorney

9 
10 STEPHANIE HINDS
11 Deputy Chief, Criminal Division

12 (Approved as to form: 
13 SHAILIKA S. KOTIYA
14 Assistant United States Attorney